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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,788

11/20/2003

Vincent J. Zimmer

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EXAMINER

CAO, CHUN

ART UNIT

PAPER NUMBER

2115

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,788

Applicant(s)

ZIMMER ET AL.

Examiner

Chun Cao

Art Unit

2115

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-30 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The current title is imprecise.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 and 18-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As to claims 1 and 18, the limitation "booting the selected operational environment if the selected operational environment was not in the resume stack" is not clearly understood. If the selected operational environment was not in the resume stack, then booting the selected operational environment is not possible. But the specification discloses that enabling for booting the selected operational environment if an associated resume file of the selected operational environment is not available in the resume stack.

Claims 2-8 are rejected because they incorporate the deficiencies of claim 1.

Claims 19-25 are rejected because they incorporate the deficiencies of claim 18.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 18 is not limited to tangible embodiments. In view of Applicant's disclosure, specification page 15, paragraph 0036, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments and intangible embodiments such as signals, carrier wave, waveforms, transmissions and communication link which are non-statutory subject matter. As such, the claim is not limited to statutory subject matter and is therefore non-statutory. Specifically, the claims recite computer instructions in a machine accessible medium. The machine accessible medium as described in the specification includes carrier wave and computer instructions on carrier wave is not a proper manufacture under 35 U.S.C. 101. For purposes of examination it will be interpreted that the media is statutory subject.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3-10, 12-18, 20-26 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirohisa et al. (Hirohisa), European patent no. 0658843A1.

As per claim 1, Hirohisa teaches a method for resuming a computing device [fig. 9], comprising:

determining whether a selected operational environment is in a resume stack; popping an entry of the resume stack, the entry identifying a location of a resume file; invoking the selected operational environment using the resume file [fig. 9; col. 12, lines 18-43; col. 13, lines 1-12]; and booting the selected operational environment if the resume file of the selected operational environment was not in the resume stack, wherein the resume stack identifies a plurality of disparate operational environments [col. 6, lines 29-53; col. 12, lines 18-56; col. 13 lines 1-12; col. 18, lines 10-24].

As per claim 3, Hirohisa teaches that the resume stack comprises pointers identifying which operational environments have been put into sleep mode [col. 18, lines 10-24].

As per claim 4, Hirohisa inherently teaches that a bootnext variable identifies an operational environment to which to resume [col. 13, line 1-12; col. 18, lines 10-24].

As per claim 5, Hirohisa inherently teaches that the bootnext variable identifies a location of a boot loader corresponding to the selected operational environment [col. 13, line 1-12; col. 18, lines 10-24].

As per claim 6, Hirohisa teaches of waking the computing device in response to a wake event, wherein the selected operational environment is invoked upon waking, and wherein the selected operational environment is resumed from the resume file, if the resume file was identified in an entry popped from the resume stack [fig. 9; col. 6, lines 29-53; col. 12, lines 18-56; col. 13 lines 1-12].

As per claim 7, Hirohisa teaches that each operational environment has a corresponding disk partition, the corresponding disk partition having an operational environment loader [figures 3,4; col. 6, lines 31-41; col. 7, lines 48-51].

As per claim 8, Hirohisa teaches the resume file is stored in a corresponding disk partition [figures 3,4; col. 6, lines 31-41; col. 7, lines 5-34, 48-51].

As to claims 9, 10 and 12-17 basically are the corresponding elements that are carried out the method of operating steps in claims 1 and 3-8. Accordingly, claims 9, 10 and 12-17 are rejected for the same reason as set forth in claims 1 and 3-8.

As to claims 18 and 20-25, Hirohisa teaches the claimed method of steps. Therefore, Hirohisa teaches the computer instruction storing in a machine accessible medium to carry out the method of steps.

Regarding to claims 26 and 28-30 are contained the same limitations as claims 1 and 3-8. Therefore, same rejection is applied.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 11, 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirohisa et al. (Hirohisa), European patent no. 0658843A1 in view of McLaren et al. (McLaren), US patent no. 6,678,712.

As to claims 2, 11, 19 and 27 Hirohisa teaches of entering a sleep mode for a current operational environment, wherein entering the sleep mode causes the saving of a corresponding resume file and pushing of a location of the corresponding resume file onto the resume stack [col. 14, lines 25-35].

Hirohisa does not explicitly teach of selecting a second operational environment to which a resume is desired.

McLaren teaches of selecting a second operational environment to which a resume is desired [fig. 5; col. 8, lines 21-60; col.11, line 4-col. 12, line 20].

It would have been obvious to one of ordinary skill in the art at time the invention to combine the teachings of Hirohisa and McLaren because they both teach a computer system having multi-OS, and the specify teachings of McLaren stated above would improve the performance of Hirohisa system for selecting a second operational environment to operate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun Cao whose telephone number is 571-272-3664. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2115

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Apr. 17 2006



**CHUN CAO
PRIMARY EXAMINER**